

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSEPH and ADAM SMITH,

Plaintiffs,

v.

TENANT TRACKER, INC.,

Defendant/Cross
Claimant,

v.

DALE PEROZZO,

Cross Defendant.

CASE NO. C21-5380-BHS-SKV

ORDER GRANTING TENANT
TRACKER'S MOTION FOR RELIEF
FROM DEADLINE

Defendant/Cross Claimant Tenant Tracker Inc. (Tenant Tracker) filed a Motion for Relief from Deadline. Dkts. 53-54.¹ Tenant Tracker seeks relief from a deadline set in the Court's June 22, 2022 Order addressing a motion to disqualify Plaintiffs' expert witness Evan Hendricks. Dkt. 52. In that Order, the Court granted Plaintiffs until July 6, 2022 to cure defects in Mr. Hendricks' expert report and ordered Tenant Tracker to submit a rebuttal expert report within

¹ By stipulated Order dated July 12, 2022, the Court substituted Tenant Tracker as Defendant for prior named Defendant Result Matrix, Inc. Dkt. 57. This Order refers only to substituted Defendant Tenant Tracker.

1 fourteen days after receipt of a revised report from Mr. Hendricks. Plaintiffs served their revised
2 expert report on July 6, 2022. Dkt. 54, ¶2. Tenant Tracker seeks to depose Mr. Hendricks and
3 requests it be permitted submit its rebuttal expert report no later than ten days after it conducts
4 that deposition.

5 Tenant Tracker initially stated that, at the time of filing its motion, it had not received a
6 response to a June 28, 2022 request to Plaintiffs' counsel to arrange a deposition of Mr.
7 Hendricks via zoom prior to the July 19, 2022 discovery deadline in this case or to stipulate to
8 relief from that deadline. *See* Dkt. 54, ¶¶3-4. Shortly thereafter, Tenant Tracker corrected this
9 assertion in a supplemental declaration and in response to a request from Plaintiffs' counsel. *See*
10 Dkt. 55. That is, Plaintiffs' counsel had, on June 30, 2022, agreed that Plaintiffs were "ok to
11 wait" on holding Mr. Hendricks' deposition. *Id.* at 4.

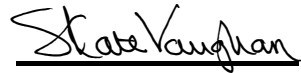
12 Tenant Tracker subsequently observed that Plaintiffs, on July 14, 2022, first provided
13 proposed dates for Mr. Hendricks' deposition, suggesting it occur during the weeks of August
14 22nd or August 29th of 2022. Dkt. 58. Because these dates fall more than a month after the
15 discovery cutoff and after the August 19, 2022 disposition motion deadline, Tenant Tracker now
16 asserts: (1) if Plaintiffs intend to file a motion for summary judgment and intend to use Mr.
17 Hendricks' declaration testimony, Tenant Tracker objects to the proposed dates of deposition;
18 and (2) if Plaintiffs do not intend to use Mr. Hendricks' testimony and the Court grants relief
19 from the discovery deadline to allow for Mr. Hendricks' deposition, Tenant Tracker does not
20 object to deferring the deposition to late August. Tenant Tracker also continues to seek leave to
21 file its expert rebuttal report after deposing Mr. Hendricks.

1 Plaintiffs did not file an opposition or other response to Tenant Trackers' motion. The
2 Court, now considering Tenant Trackers' unopposed motion for relief, along with the remainder
3 of the record, finds and concludes as follows:

4 (1) Tenant Tracker's Motion for Relief from Deadline, Dkts. 53-54, is GRANTED.
5 The parties are directed to set a date for Mr. Hendricks' deposition to occur no later than
6 **September 2, 2022**. Tenant Tracker must submit any rebuttal expert report within **ten (10) days**
7 of the date of that deposition. Further, the deadline for filing dispositive motions is re-set to
8 **September 26, 2022**. The parties are advised that they should not anticipate any further
9 extensions of these deadlines.

10 (2) The Clerk is directed to send a copy of this Order to the parties.

11 Dated this 19th day of July, 2022.

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13 S. KATE VAUGHAN
14 United States Magistrate Judge
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